IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 24035 of 2004

Between:

Radhakrishna Kumari, D/o. Late Raghava Rao, Mandal Development Officer, presently working at MPP Tekulapally of Khammam District.

..... PETITIONER

AND

1 The Principal Secretary, Government of Andhra Pradesh, PanchayatRaj and Rural Development, Secretariat Building, at Hyderabad.
2 The Commissioner of Panchayat Raj and Rural Employment, Government of AP, Urdu Hall Lane, Himayathnagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the order dated 2-12-2004 in O.A.No. 932/2001, on the file of AP Administrative Tribunal and also the impugned Memo No. 29096/Estt./II.2/2K-2 dated 15-12-2000 on the file of the 1st respondent and the Proceedings No. 33899/CPR-13/99 dated 18-6-2000 on the file of 2nd respondent, as illegal, unlawful, unconstitutional and contrary to CCA Rules, 1991 and consequently set-aside the punishment order dated 18-6-2000 passed by the 2nd respondent and pass necessary orders in the interest of justice.

Counsel for the Petitioner: MR.M.DAMODAR REDDY
Counsel for the Respondents: GP FOR SERVICES-II

The Court made the following:

ORAL ORDER: (By GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.932 of 2001, dated 2.12.2004.

2. The petitioner was working as Mandal Development Officer. She was issued with a charge sheet dated 27.12.1999 containing as many as eight charges. The petitioner denied the said charges and thereafter an enquiry was conducted by duly appointed enquiry officer. The enquiry officer, however, held that charge No.8 was proved and other charges were not proved. Basing on the report of the enquiry officer, the 2nd respondent passed an order dated 18.6.2000 ordering recovery of Rs.11,000/- and also imposing punishment of deferment of one increment with cumulative effect. The said order was assailed by the petitioner before the Tribunal in the above OA unsuccessfully. Against the dismissal of the OA., the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that though in respect of charge No.1, the petitioner was exonerated, the disciplinary authority held that charge No.1 was proved without giving any opportunity, and therefore the order of punishment is vitiated for violation of principles of natural justice. The learned counsel would further submit that charge No.8 as proved is very trivial in nature and for which the punishment to the effect of postponement of increment cumulatively do not warrant. Hence he submits that the order of the Tribunal is liable to be set aside.

4. On the other hand the learned Government Pleader for Services-II submits that no notice is necessary when the disciplinary authority is disagreeing with the findings of the enquiry officer more especially when the petitioner had already submitted her representation to the findings of the enquiry officer.

5. We are not in agreement with the contention of the learned Government

Pleader. Admittedly in the instant case though the enquiry officer held that charge No.1 was not proved against the petitioner, the disciplinary authority held that the petitioner while colluding with the concerned Assistant Engineer, paid the entire amount to the beneficiaries without verification, thereby held that charge No.1 was proved against her. It is to be noted that as held by the enquiry officer, the concerned Assistant Engineer has to be blamed for the misdeeds committed by him but not the petitioner. It is also to be noted in this regard that the petitioner was not given any notice or opportunity before he is disagreeing with the findings of the enquiry officer. It is a cardinal principle in service jurisprudence that no adverse order shall be passed without giving any opportunity to the officer concerned. Admittedly in the instant case, while disagreeing with the findings of the enquiry officer in respect of charge No.1, the petitioner was not afforded any opportunity. Under those circumstances, on this ground alone, without going into the other merits of the case, we are inclined to set aside the order of punishment and remit the matter back to the 2nd respondent for fresh consideration.

6. Accordingly the order of the Tribunal is set aside and the order of the 2nd respondent dated 18.6.2000 is quashed. The 2nd respondent shall issue fresh show cause notice to the petitioner in respect of charge No.1 wherein he intended to disagree with the findings of the enquiry officer. After obtaining necessary representation to the show cause notice from the petitioner, the 2nd respondent shall pass appropriate order. This exercise shall be done within a period of two (02) months from the date of receipt of a copy of this order.

7. With the directions indicated above, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

23rd December, 2004.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary, Government of Andhra Pradesh, PanchayatRaj and Rural Development, Secretariat Building, at Hyderabad.
2 The Commissioner of Panchayat Raj and Rural Employment, Government of AP, Urdu Hall Lane, Himayathnagar, Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

5 2CD copies.